

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JOSE RENE AMAYA HERNANDEZ,)	
)	
Petitioner,)	
)	
v.)	1:10CV137
)	1:08CR95-1
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on July 20, 2010, was served on the parties in this action. Petitioner filed objections to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

IT IS HEREBY ORDERED that Petitioner's motion to vacate, set aside or correct sentence [Docket No. 54] is **DENIED** and that this action is dismissed. **IT IS FURTHER ORDERED** that Petitioner's motion for a stay or other injunctive relief [Docket No. 69] is **DENIED** for lack of good cause. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal

concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 16th day of October, 2012

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge